

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	03-0595
Implementation of the Federal)	
Communications Commission's Triennial)	
Review Order with respect to Potential Non-)	
Impairment Determinations Regarding)	
Unbundled Local Switching for Mass Market)	
Customers In Specific Markets)	

**SAGE TELECOM, INC., Z-TEL COMMUNICATIONS, AND TALK AMERICA INC.'S
EMERGENCY VERIFIED APPLICATION FOR THE ISSUANCE OF A SUBPOENA
DUCES TECUM TO ISSUE THE FIRST SET OF DISCOVERY REQUESTS TO
COMCAST CABLE COMMUNICATIONS, INC.**

NOW COMES Sage Telecom, Inc. ("Sage"), Z-Tel Communications ("Z-Tel"), and Talk America, Inc. ("Talk") (collectively referred to herein as the "CLEC Applicants"), by their attorneys Kelley Drye & Warren LLP, and pursuant to 83 Illinois Administrative Code Section 200.380 and requests that the below listed companies respond to the attached subpoena duces tecum by January 15, 2004, 2003, by responding to the interrogatories and documents requests, and making available for inspection and copying responsive documents and things or by producing them at the offices of Kelley Drye & Warren LLP, 333 West Wacker Drive, Suite 2600, Chicago, Illinois 60606. The subpoena is directed to Comcast Cable Communications, Inc. ("Comcast" or "Recipient"):

Thomas Rowland
Rowland & Moore
77 West Wacker Drive, Suite 4600
Chicago, Illinois 60601
(312) 803-1000

Richard Wolfe
Comcast Cable Communications, Inc.
29777 Telegraph road, Suite 4400-B
Southfield, MI 48034-5155
(248) 233-4552

Copies of this Application for Subpoena and the proposed subpoena are being served upon the Recipients. Because of the fact that the CLECs have their direct testimony due on January 20, 2004 and of the resultant need to complete discovery in a very short time frame, the CLEC Applicants request that the ALJ grant the emergency nature of this application rule on this application as quickly as possible within the seven-day response period. *See*, 83 Ill. Admin. Code § 200.380(d).

In support of this subpoena, the CLEC Applicants state as follows:

1. Crucial to the resolution of this proceeding is the extent to which competitive local exchange carriers have deployed their own switching facilities in certain Illinois markets.
2. SBC Illinois has named Comcast as a self-provisioning carrier in order to satisfy the finding of no-impairment for unbundled local switching for mass market customers in certain Illinois markets. Comcast is not a party to this proceeding and the CLEC Applicants therefore cannot obtain the requested information simply by serving data requests pursuant to Rule 200.360(c) of the Commission's Rules of Practice.
3. Based upon the information available to them, the CLEC Applicants are unable to verify SBC Illinois' claims with respect to the Recipients. As a result, without the information requested by the subpoena, the CLEC Applicants are not be able to present to the Commission a complete picture regarding the extent of deployment of CLEC facilities.
4. The information requested in the subpoena is reasonably tailored to avoid unnecessary burden on the Recipient.

WHEREFORE for all the reasons stated, the CLEC Applicants respectfully request the ALJ to issue the attached subpoena on an emergency basis for service by the CLEC Applicants.

Respectfully submitted,

SAGE TELECOM, INC., Z-TEL
COMMUNICATIONS, INC., and TALK
AMERICA INC.

Henry T. Kelly /s/
Henry T. Kelly, one of their attorneys

Henry T. Kelly
Joseph E. Donovan
Kelley Drye & Warren LLP
333 West Wacker Drive
Chicago, Illinois 60606
HKelley@KelleyDrye.com
JDonovan@KelleyDrye.com
(312) 857-7070

Brad Mutschelknaus
Michael Hazzard
Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, DC 20036
BMutschelknaus@KelleyDrye.com
MHazzard@KelleyDrye.com
(202) 955-9600

VERIFICATION

I, Joseph E. Donovan, being first duly sworn on oath, depose and state that I am an attorney in this matter for Talk America Inc., Sage Telecom, Inc., and Z-Tel Communications, Inc. ("CLEC Applicants"), that I have personal knowledge of the issues in this proceeding, that the information sought in the requested subpoenas is essential for the CLEC Applicants to present evidence about whether the triggers for a finding of non-impairment are met in this case, that the information sought in the subpoenas is not available from any other source, and that the subpoenas are requested in good faith and not for the purpose of delay.

Joseph E. Donovan

Subscribed and sworn to
before me this ___ day of January,
2004.

Notary Public

NOTICE OF FILING

Please take notice that on January 8, 2004, I caused to be filed via e-docket with the Illinois Commerce Commission the Sage Telecom, Inc., Z-Tel Communications, Inc., and Talk America Inc.'s Emergency Application for Issuance of a Subpoena Duces Tecum to Comcast Cable Communications, Inc., a copy of which is attached hereto.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of Sage Telecom, Inc., Z-Tel Communications, Inc., and Talk America Inc.'s Emergency Application for Issuance of a Subpoena Duces Tecum with the First Set of Discovery Requests to Comcast Cable Communications, Inc. attached thereto was served on January 8, 2004 to all parties of record and Comcast Cable Communications, Inc..

Respectfully submitted,

SAGE TELECOM, INC.,
Z-TEL COMMUNICATIONS, INC., and
TALK AMERICA INC.

By: Joseph E. Donovan
One of their attorneys

Henry T. Kelly
Joseph E. Donovan
Kelley Drye & Warren LLP
333 West Wacker Drive
Chicago, Illinois 60606
HKelley@KelleyDrye.com
JDonovan@KelleyDrye.com
(312) 857-7070

Brad Mutschelknaus
Michael Hazzard
Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, DC 20036
BMutschelknaus@KelleyDrye.com
MHazzard@KelleyDrye.com
(202) 955-9600

DEFINITIONS AND INSTRUCTIONS

A. Each request pertains to documents, physical objects, and computer recorded information in your knowledge, possession, custody, or control, or in the knowledge, possession, custody, or control of your agents or representatives. Each request is also a continuing request for information and documents, which come into your control during the time in which this proceeding is pending.

B. With respect to any document responsive hereto which has been destroyed, lost, or is no longer in your possession or subject to your control, you shall submit a statement setting forth as to each, a description of the item, its disposition, the date of disposition, and the names of all those with knowledge thereof.

C. The words "document", "memoranda", "work papers", "notes", "correspondence", "item", and "record", include any physical object, written, printed, typed, recorded or graphic, however produced or reproduced, whether sent, received or neither, including originals, copies and drafts, and including but not limited to: correspondence, e-mail, telecopier correspondence, messages, reports and recordings of telephone or other conversations and of interviews and conferences, memoranda, notes, opinions, records, balance sheets, income statements, monthly statements, book entries, account letters, ledgers, journals, books or records of accounts, summaries of accounts, purchase or sales orders, invoices, vouchers, bills, receipts, check stubs, cancelled checks, drafts, leases, contracts, offers, desk calendars, appointment books, diaries, expense reports, summaries, transcripts, minutes, reports, affidavits, statements, questionnaires, answers to questionnaires, plans, specifications, lab books and notations, data notations, workpapers, confirmations, formulas, studies, forecasts, projections, analyses, evaluations, statistical records, tabulations, calculations, charts, graphs, surveys, renderings, diagrams,

photographs, recordings, films, video recordings, microfilms, papers, books, periodicals, pamphlets, newspaper articles or clippings, publications, schedules, lists, indexes, all other records or information kept by electronic, photographic, mechanical or other means, and any item similar to the foregoing, however denominated, whether currently in existence or already destroyed.

D. With respect to any responsive document to which the respondent asserts a claim of privilege, please submit a list identifying each document. Identification shall include the (1) date of the document, (2) the names, addresses and capacity of those who have signed the document, (3) the names, addresses and capacity of those who participated in its preparation, (4) the addressee or addressees, (5) the person or persons by whom it was received, (6) the general subject matter thereof, (7) the present or last known location and custodian of the original (or, if that is unavailable, the most legible copy or duplicate thereof), (8) the names and addresses of those who have received a copy of the document, and (9) the basis for your claim of privilege.

E. For each response to a Data Request, please provide the name of each person who assisted in the preparation of such response.

REQUESTS

Sage/Talk/Z-Tel Request 2.01:

For each of your company's switches identified by SBC as a switch being used to serve mass market customers located in LATA 358 (See attached exhibit 1, which is a copy of SBC Exhibit WCD-4, attached to Mr. Deere's testimony), provide the following information:

- a. Identify each wire center from which you order ILEC facilities to connect your switch to end-user customers to whom you provide local exchange service.
- b. For each wire center from which you order ILEC facilities to connect your switch to end-user customers, please identify the number of connections to customers by type:
 - i. Analog loops used exclusively to provide voice service (i.e., no DSL);
 - ii. Analog loops used to provide voice/data service (i.e., with DSL);

- iii. DS-1s ordered as UNEs;
 - iv. DS-1s ordered as special access;
 - v. DS-3s.
- c. To the extent that you use a DS-3 connection to the end-user, please also provide the number of DS-1s that are connected to your switch.
- d. If you also provide service using UNE-P, please provide:
 - i. The number of analog residential UNE-P lines in service by wire center;
 - ii. The number of analog business UNE-P lines in service by wire center;
 - iii. The number of analog customers that you have migrated from UNE-P to UNE-L.
- e. Identify the capacity of each switch (the number of voice-grade equivalent lines it is capable of serving) based on that switch's existing configuration and component parts. Separately state the number of equipped lines on the switch and the number of customers your company could add serving customers with analog lines based on the current configuration and mix of customers (i.e. DS1 vs. analog).

Sage/Talk/Z-Tel Request 2.02:

For each switch identified in response to DR 2.01, provide the following information, for each wire center in which the company serves customers with analog lines:

- a. State the number of analog UNE loops used to provide service to residential customers without DSL service.
- b. State the number of analog UNE loops used to provide service to residential customers with DSL service.
- c. Of the analog UNE loops used to provide service to business customers, state how many of these loops are provided to the end user on a written contractual (i.e., non-tariff) basis.

Sage/Talk/Z-Tel Request 2.03:

For each switch identified in response to DR 2.01, provide the following information:

- a. State the number of loops added for the purpose of providing POTS via an analog loop to an end user for the most recent 6 months for which such information is available and indicate the period for which the information is provided.

- b. If the information requested above is not available by wire center, please provide by switch, and list all wire centers connected by collocation to each switch.

Sage/Talk/Z-Tel Request 2.04:

For each switch identified in response to DR 2.01, provide the following information:

- a. State whether there are any loops connected to this switch that are not loops leased or purchased from SBC Illinois or one of its affiliates being used to provide voice only service.
- b. If the answer to (1) above is yes, please identify:
 - i. The number of analog loop connections to an end-user premise provided over a self-deployed facility.
 - (a) Identify the facility-type of self-deployed facilities (i.e., coaxial cable, wireless local loop, etc....)
 - (b) If more than one facility-type is used, please provide the approximate percentage (on a voice-grade equivalent basis) of end-user connections on each facility.
 - (c) State also the number of customers served with a digital loop facility.
 - ii. The number of DS-1 connections to a end-user premise provided over self-deployed facility.
 - (a) Identify the facility-type of self-deployed facilities (i.e., coaxial cable, wireless local loop, fiber, etc....)
 - (b) If more than one facility-type is used, please provide the approximate percentage (on a voice grade equivalent basis) of end-user connections on each facility.

Sage/Talk/Z-Tel Request 2.05:

For each switch identified in response to DR 2.01, state whether the switch is owned in whole or in any part by an incumbent local exchange provider or an affiliate of an incumbent local exchange provider.

If yes, please provide:

- a. The name of the affiliated incumbent local exchange provider.
- b. The ownership relationship.

Sage/Talk/Z-Tel Request 2.06:

For each switch identified in response to DR 2.01, provide the total number of reciprocal compensation minutes exchanged with each ILEC over the past year, split between:

- a. Minutes that originated with customers of the ILEC and terminated on a customer served by your switch.
- b. Minutes that originated with your customers and terminated to a customer served by the ILEC switch.

Sage/Talk/Z-Tel Request 2.07:

- a. State whether you actively market to mass market customers. Answer separately for 1) residence and 2) business customers.
- b. State whether you have advertised in a medium of general distribution within the last year and, if so, indicate when and in what medium.
- c. Provide copies of all advertising material submitted to residential customers.

Sage/Talk/Z-Tel Request 2.08:

State whether your company has ever applied for ETC status.

- a. If yes, in what state?
- b. Was ETC status granted?
- c. Provide docket number and approval date.

Sage/Talk/Z-Tel Request 2.09:

- a. Provide, for each of the last three years, a copy of the annual report on the company's financial performance provided to the board of directors.
- b. Provide projected income statements for the next one, two and three years.

Sage/Talk/Z-Tel Request 2.10:

State the number of analog customer lines that are served via an Enhanced Extended Link provisioned by SBC.

Sage/Talk/Z-Tel Request 2.11:

- a. Provide a list of all the ILEC wire centers in Illinois LATA 358 to which you have obtained transport facilities (i.e., any facilities that, directly or indirectly, provide connections to wire centers) from the incumbent LEC.
- b. For each such transport facility, identify whether SBC has indicated an intent to no longer make that facility available as an unbundled network element available under Section 251 and Section 252 of the Federal Communications Act.

Sage/Talk/Z-Tel Request 2.12:

For each ILEC wire center or pair of ILEC wire centers identified in your previous response, state the amount of capacity or type (e.g., DS1, DS3) provided on each route and the level of capacity the facility is capable of supporting.

Sage/Talk/Z-Tel Request 2.13:

For each customer listing in the LATA 358 E-911 database for a customer currently served, please identify the wire center in which the customer is located, and the class of service that is being provided to that customer (e.g., residential or business).

Sage/Talk/Z-Tel Request 2.14:

For each rate exchange area in the LATA 358 indicate which NXX codes have been opened or activated to provide local service using an analog line.

Sage/Talk/Z-Tel Request 2.15:

Please describe how and the extent to which you have implemented line splitting for UNEP and UNEL customers. If the company has not implemented line splitting or line sharing arrangements, identify whether the company provides data services to customers using analog lines.

Respectfully submitted,

SAGE TELECOM, INC., Z-TEL
COMMUNICATIONS, INC., and TALK
AMERICA INC.

Henry T. Kelly /s/

Henry T. Kelly, one of their attorneys

Henry T. Kelly
Joseph E. Donovan
Kelley Drye & Warren LLP
333 West Wacker Drive
Chicago, Illinois 60606
HKelley@KelleyDrye.com
JDonovan@KelleyDrye.com
(312) 857-7070

Brad Mutschelknaus
Michael Hazzard
Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, DC 20036
BMutschelknaus@KelleyDrye.com
MHazzard@KelleyDrye.com
(202) 955-9600